

ORIGINAL

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION**

FILED IN CLERK'S OFFICE
U.S. DISTRICT COURT
DANIEL J. DONAHUE
DEC 02 2003

LUTHER D. FRANCIS, Clerk.
By:  Deputy Clerk

**IN RE: TRI-STATE
CREMATORIAL LITIGATION**) MDL DOCKET NO. 1467
This relates to all actions.)
)
)

**FUNERAL HOME DEFENDANTS ADOPTION OF LOVE FUNERAL
HOME, INC.'S RENEWED NOTICE OF OBJECTION,
OR IN THE ALTERNATIVE, MOTION TO STRIKE PORTIONS
OF THE AFFIDAVIT OF JAMES J. JACONETTI
AND BRIEF IN SUPPORT THEREOF**

COME NOW FUNERAL HOME DEFENDANTS and adopt Love Funeral Home, Inc.'s (hereinafter referred to as "Love"), Renewed Notice of Objection, or in the Alternative, Motion to Strike¹ Portions of the Affidavit of James J. Jaconetti² and the Brief in Support Thereof, as if Defendant Funeral Homes had filed said notice and motion themselves.

¹ Several judges in the Northern District of Georgia have held that a notice of objection, not a motion to strike, is the proper method for challenging the admissibility of evidence in an affidavit. See, e.g., Morgan v. Sears Roebuck and Co., 700 F. Supp. 1574, 1576 (N.D. Ga. 1988)(Forrester, J.); Pinkerton and Laws Co. v. Roadway Express, Inc., 650 F. Supp. 1138, 1141 (N.D. Ga. 1986)(Ward, J.).

² The Jaconetti Affidavit is attached to the Love Notice marked as Exhibit "A."

WHEREFORE FUNERAL HOME DEFENDANTS respectfully
request that its Notice of Objection, or in the Alternative, Motion to Strike
Portions of the Affidavit of James Jaconetti be granted.

This 2nd day of December, 2003.

**BRINSON, ASKEW, BERRY, SEIGLER,
RICHARDSON & DAVIS, LLP**

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By: *Robert M. Brinson* (by JAD)
Robert M. Brinson
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By: *Judie D. Davis*
J. Anderson Davis
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Lead and Liaison Counsel for
Defendant Funeral Homes

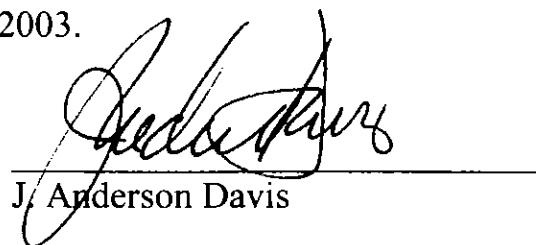
CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for all parties with a copy of the within and foregoing **Funeral Home Defendants' Adoption of Love Funeral Home's Notice of Objection, etc...** by causing a copy of same to be placed in first class U.S. mail with adequate postage affixed thereto and addressed as follows:

Robert H. Smalley, III, Esquire
McCAMY, PHILLIPS, TUGGLE & FORDHAM, LLP
Post Office Box 1105
Dalton, GA 30720-1105
Liaison for Plaintiffs

McCracken Poston, Jr., Esquire OFFICE McCRACKEN POSTON Post Office Box 1130 Ringgold, GA 30736 Liaison/Lead Counsel for Tri-State Crematory, Inc. and the Marsh Family	Frank E. Jenkins, III, Esquire JENKINS & OLSON 15 Public Square, South Cartersville, GA 30120-3350
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This 2nd day of December, 2003.



J. Anderson Davis